

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

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LERROY UNITED METHODIST CHURCH

Plaintiff

**CIVIL ACTION NO.:**  
**1:22-cv-598**

v.

BROTHERHOOD MUTUAL INSURANCE COMPANY

Defendant

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**PETITION FOR REMOVAL**

In accordance with 28 U.S.C. § 1332(a)(1), § 1441(a) and § 1441(b), Defendant, Brotherhood Mutual Insurance Company, (“BMIC”), seeks to remove this action from the New York State Supreme Court, County of Genesee, under Index No. E69815 where it is now pending, to the United States District Court for the Western District of New York. This Court has original jurisdiction under 28 U.S.C. §§ 1332 and 1441 because, as detailed herein, there is complete diversity of citizenship between Plaintiff LeRoy United Methodist Church (“Plaintiff” or “Leroy Church”) and BMIC and the amount in controversy exceeds \$75,000, exclusive of interest and costs. In support of removal, BMIC states as follows:

I. **Background**

1. A Civil Action has been brought against the above-identified Defendant by Plaintiff LeRoy United Methodist Church (hereinafter “Plaintiff”) and is pending in the Supreme Court of New York, County of Genesee, Index No. E69815 (the “State Action”). Pursuant to Local Rule 81(a)(3)(A), an index of all documents filed in the State Action is attached hereto as Exhibit A. In addition, a copy of all proceedings and pleadings is attached hereto as Exhibit B.

2. On or about March 16, 2022, Plaintiff filed its Verified Complaint against BMIC. See Exhibit B, which includes a copy of the Plaintiff's Complaint (the "Complaint").
3. On or about July 5, 2022, BMIC was served with a copy of the Summons and Complaint.
4. The Petition for Removal is timely as it is filed within (30) days after BMIC's receipt of the Summons, Notice of Electronic Filing, and Complaint with Exhibits.
5. The Court wherein the State Action was originally filed is in Genesee County, New York, which is embraced within this jurisdictional district.
6. BMIC seeks to remove this case on the basis of diversity jurisdiction, pursuant to 28 U.S.C. § 1332(a)(1), on the grounds that there is complete diversity of citizenship among the parties to this litigation, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.
7. According to business filings, Plaintiff is an operating location of LeRoy United Methodist Church, Inc., an Ohio non-profit corporation. Upon information and belief, Plaintiff's principal place of business is 10 Trigon Park Le Roy, New York.
8. BMIC is an Indiana corporation with its principal place of business in Fort Wayne, Indiana.
9. Plaintiff is seeking \$250,000 for alleged breach of contract claims. See Complaint at ¶ 19.
10. Thus, there is complete diversity of citizenship between Plaintiff and BMIC, the only defendant, and the alleged amount in controversy exceeds \$75,000, exclusive of interest and costs.
11. As Defendant is the only party named, removal is proper pursuant to 28 U.S.C. § 1441(a) and § 1441(b).

12. Further, the requirements of 28 U.S.C. § 1332(a)(1), § 1441(a) and § 1441(b) have been satisfied and this matter can be removed.

13. By filing this Notice of Removal, BMIC does not waive any defenses that may be available to it, including but not limited to, its right to contest *in personam* jurisdiction and improper service of process.

## II. **Plea for Removal**

14. Venue is proper in this Court because the United States District Court for the Western District of New York is the federal judicial “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

15. As set forth herein, there is complete diversity of citizenship and the amount in controversy exceeds the jurisdictional requirement of \$75,000 conferring subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332, and removal to this Court is proper according to 28 U.S.C. §1441.

16. Moreover, no defendant is a citizen of the State of New York. Therefore, 28 U.S.C. §1441(b) does not preclude removal.

17. BMIC will give written notice to all parties and to the Clerk of New York State Supreme Court, County of Genesee that it filed this Notice of Removal with this Court.

WHEREFORE, BMIC respectfully requests that the action titled *Leroy United Methodist Church v. Brotherhood Mutual Insurance Company*, presently pending in the New York State Supreme Court, County of Genesee, under index number E69815, be removed to the United States District Court for the Western District of New York for all further proceedings.

Dated: August 3, 2022

GOLDBERG SEGALLA LLP

By:

s/ Jonathan Schapp

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